

1 of course, is that group that says -- that  
2 presumably releases some of the lesser-dangerous  
3 people from the jail to provide room in the jail  
4 facility.

5 JUDGE KINSEY: Correct.

6 THE CHAIR: And that was not  
7 something that you felt he was required to do, that  
8 Judge Green was obligated to do, to participate in  
9 this scheme?

10 JUDGE KINSEY: I'm not sure I understand  
11 your question.

12 THE CHAIR: With regard to this pity  
13 committee, did you feel as though Judge Green was --  
14 in responding to the mandates required by this,  
15 quote, pity committee, did you feel as though that  
16 was -- you were obligated to bring that to the  
17 public's attention?

18 JUDGE KINSEY: Yes, I did. The public  
19 didn't know what the pity committee was. The public  
20 didn't even know a pity committee existed. I assume  
21 everyone knows what a pity committee is in the room.

22 THE CHAIR: I think the judges do.

23 MR. NACHWALTER: I don't.

24 THE CHAIR: But I'm not sure the  
25 lawyers do --

1 JUDGE KINSEY: There is a group --

2 THE CHAIR: -- and the various other  
3 lay people.

4 JUDGE KINSEY: Oh, I'm sorry. I forgot  
5 there's a court reporter.

6 There is a group that gathers whenever  
7 the jail population gets to a certain level. And in  
8 this group are lay people in the community, lawyers.  
9 And also I believe there is supposed to be, when  
10 available, a judge who will sit on this committee,  
11 as well, although my understanding is that's not  
12 always the case.

13 And they review the people who are being  
14 held -- not people who are sentenced, primarily, but  
15 people who are being held because they haven't been  
16 able to make bond or don't have bond available. And  
17 they release these people into the community pending  
18 their trial or can in fact give them extra gain  
19 time, I guess, to get them out early. I'm not sure  
20 exactly how all that works. But I know that I  
21 wasn't aware of this until well late into my career.  
22 And I thought the public had a right to know about  
23 the pity committee.

24 MR. SANDERS: Excuse me. Is that an  
25 acronym or some kind of a -- does "pity" stand for

1 something? Is it a derisive term?

2 THE CHAIR: Pity.

3 MR. SANDERS: I mean, is it meant  
4 derisively? Is that how it's used in the context  
5 that the judges use it?

6 THE CHAIR: It's meant to relieve  
7 the jail-overcrowding situation.

8 MR. SANDERS: I understand that. But is  
9 it a derisively used term?

10 MR. NACHWALTER: Yeah. Is it being used  
11 sarcastically? The word "pity" is -- obviously it's  
12 a word, but is it being used sarcastically, or is it  
13 just, you know --

14 JUDGE KINSEY: That's what it's always  
15 been called.

16 MR. NACHWALTER: Okay.

17 JUDGE KINSEY: For example, I've learned  
18 now as a judge that if I wanted someone held on no  
19 bond because they're a danger to the community for  
20 some reason, I have to put "No bond, no pity  
21 committee." And I actually have a stamp that says  
22 exactly that that I put on warrants when I sign  
23 them, if in fact that's appropriate.

24 JUDGE KANEY: I think it's a local term.  
25 We call ours a Jail Cap Release Program.

1 MR. KINSEY: Interestingly enough, on the  
2 same radio station roughly two weeks later, Judge  
3 Green and Judge Terrell appeared on the show and got  
4 into the same issue. And Judge Green said, "Well,  
5 you have to take into account the number of beds."

6 When Judge Terrell was asked the question,  
7 he said it is absolutely improper for a judge to  
8 consider jail population when imposing either bond  
9 or sanction.

10 THE CHAIR: Let me ask if the other  
11 folks have questions. Do you want to go around the  
12 room? Would that be okay?

13 JUDGE KINSEY: That's fine.

14 THE CHAIR: Patsy?

15 MS. HEFFNER: No.

16 THE CHAIR: Judge Kaney?

17 JUDGE KANEY: No, nothing.

18 THE CHAIR: Dr. Haber?

19 DR. HABER: I do, but can we pass it for a  
20 moment --

21 THE CHAIR: Sure. And then we'll go  
22 to counsel as well.

23 DR. HABER: -- while I finish my candy?

24 MR. NACHWALTER: Caught you.

25 THE CHAIR: Okay. Mr. Richardson?

1 MR. RICHARDSON: I don't have anything.

2 THE CHAIR: Judge Wolf?

3 JUDGE WOLF: Okay. I've got a big mouth.  
4 I'll start.

5 THE CHAIR: Well, we've already  
6 started with our big mouths.

7 JUDGE WOLF: Okay. On the first charge --  
8 I'd like to go down some of these one by one -- your  
9 husband kind of responded saying it may be  
10 appropriate in certain circumstances to put  
11 criminals behind bars.

12 As I read the ad there, I have two  
13 problems which I want you to address. One is, do  
14 you think it's appropriate for you to be helping law  
15 enforcement? And number two is, where does this  
16 qualify "where appropriate"? I'm very concerned  
17 that as a judge running for office we need to be  
18 very careful with what we say.

19 JUDGE KINSEY: And I agree.

20 JUDGE WOLF: Okay. Do you feel that part  
21 of a judge's job is to help law enforcement?

22 JUDGE KINSEY: In the broad sense of the  
23 word, I think that you can say that. Certainly not  
24 to the extent of being an advocate, but we're all  
25 part of the system. And the point was -- and

1 throughout the campaign, it came out that Judge  
2 Green fought against law enforcement, that he stood  
3 in the way of the people of the community of having  
4 a safe community by standing in the way of law  
5 enforcement doing their job.

6           So in that broad sense, yes, I guess you  
7 could say we were helping. Again, the phrases that  
8 are in the -- what did we call this -- Notice of  
9 Investigation are taken out of context. And if you  
10 read the brochure in its whole, you'll see that in  
11 every brochure I'm trying to get across the fact  
12 that as a prosecutor I learned that every case has  
13 to be treated individually. Not all people need to  
14 go to jail, not all sentences need to be harsh.  
15 It's immediate punishment, it's immediate  
16 accountability that's important. It's the certainty  
17 of accountability or punishment that's important,  
18 not the harshness, and that people need to be  
19 treated based on the totality of the circumstances  
20 and not everyone given a pass, which is what was  
21 happening. Not everyone deserves a hand slap.

22           JUDGE WOLF: Okay. Do you at this point  
23 think it might have been better, rather than saying  
24 "putting criminals behind bars" to say "putting  
25 criminals behind bars where appropriate"?

1 JUDGE KINSEY: Certainly. And we were new  
2 at this, and I certainly would do many things  
3 differently, given the chance again. Although let  
4 me assure you, I do not ever want to go through  
5 another campaign. It was the most horrible,  
6 painful, disgusting, humiliating thing I've ever  
7 been through in my life. And I still get horrible  
8 feelings when I think about it.

9 But certainly there are things that I  
10 would have done differently. And certainly there  
11 are things that could have been phrased better, and  
12 there were mistakes that got by me that I just  
13 didn't catch.

14 JUDGE WOLF: Okay. How about as far as  
15 No. 5, about working with law enforcement officers?

16 JUDGE KINSEY: Uh-huh.

17 JUDGE WOLF: By putting -- it says "A  
18 judge must support hard working law enforcement  
19 officers by putting criminals behind bars and not  
20 back on the streets" and that you would work with  
21 law enforcement officers to hold criminals  
22 accountable.

23 JUDGE KINSEY: To protect victims' rights  
24 and hold criminals accountable.

25 JUDGE WOLF: Okay.

1 JUDGE KINSEY: Again, I was referring to  
2 the broad sense of we're all part of the system and  
3 we have to work together. We're all part of a team,  
4 defense attorneys, prosecutors, judges, court  
5 reporters, clerks. We all work as part of a team to  
6 make sure that the right thing gets done. And  
7 that's not what was happening under Judge Green, and  
8 that was the whole point.

9 JUDGE WOLF: Okay. The other two things  
10 that I'd like to discuss is Charges 7 and 8, that  
11 talk about giving false and misleading impressions  
12 and statements.

13 One, in State versus Johnson, charges  
14 that giving a false and misleading impression that  
15 the defendant had been charged with attempted murder  
16 and burglary at the time of his appearance for bond  
17 consideration, when in fact these charges were not  
18 pending at the time. Could you respond to that one?

19 JUDGE KINSEY: Yeah. I wish that had  
20 been worded better. Let me give you the background  
21 on that, if I could. When I read that arrest report  
22 -- I have to take it back even further than that.

23 As a prosecutor, I don't look at what  
24 someone's charged with. I look at the body of the  
25 offense report, and I read that to see what the